

TESTIMONY OF  
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AUDUBON CONNECTICUT

ENVIRONMENT COMMITTEE PUBLIC HEARING  
February 22, 2010

*IN OPPOSITION* to the following proposed legislation:

*S.B. 120 AA Authorizing Review of the Department of Environmental Protection's Guidance Statements and Policies by the General Assembly's Regulation Review Committee.*

*S.B. 5125 AAC the Identification of Sources of Pollution Outside of the State that Contribute to the Pollution of the State's Air, Water and Land.*

*S.B. 5127 AAC the Implementation of the Proposals of the Ozone Transport Commission.*

Senator Meyer, Representative Roy and honorable members of the Environment Committee, thank you for the opportunity to testify today *IN OPPOSITION* to S.B. 120, 5125 and 5127. Taken together, these three pieces of legislation seek to impede, divert and limit the ability of the Department of Environmental Protection (DEP) to protect the natural resources of the State of Connecticut.

*S.B. 120 An Act Authorizing Review of the Department of Environmental Protection's Guidance Statements and Policies by the General Assembly's Regulation Review Committee* would require DEP guidance documents to undergo the same process of legislative review as its regulations. Having received legislative approval of its regulations from the Regulations Review Committee, the agency could under S.B. 120 be forced, via a petition signed by 25 individuals, to repeat this lengthy process again, this time with the very guidance documents meant to assist in implementing its already-approved regulations. Such a review could take years to complete, during which time the agency would be unable to effectively enforce protections for the state's air, land, and waters.

DEP is an agency that has consistently been asked to do more with less, and less. The process required by S.B. 120 would add still more time and cost to environmental regulation and divert agency staff from essential duties. In 2008, the Connecticut Council on Environmental Quality (CEQ) reported that our state spends fewer tax dollars per capita than any other northeast state to protect its environment and take care of its parks.<sup>1</sup> Citing years of steadily decreasing budgets and increasing obligations, CEQ

<sup>1</sup> *Dreams Deferred: An Assessment of the Cost of Attaining Connecticut's Goals for State Parks and Environmental Protection*, A Special Report of the Connecticut Council on Environmental Quality, March 2008.

*Testimony regarding S.B. 120 continued –*

strongly recommended that DEP be funded to undertake a thorough and immediate analysis of priority agency functions and the funding needed to support them. To date, such a study has not taken place.

Promulgating regulations is a lengthy and costly process that should adhere to the highest standards of public review and participation. If that process needs to be improved, then DEP should be given the resources necessary to accomplish this goal. S.B. 120 as written would only create an endless and perhaps unconstitutional loop between the agency and the Regulations Review Committee, impeding effective environmental regulation. Audubon Connecticut *strongly urges* the Committee *to oppose* this legislation.

*S.B. 5125 AAC the Identification of Sources of Pollution Outside of the State that Contribute to the Pollution of the State's Air, Water and Land* would require DEP to issue a report every four years about sources of pollution originating outside the state - - sources of pollution over which the agency no jurisdiction. To cover the cost of producing this report, S.B. 5125 proposes to divert funds from DEP's Supplemental Environmental Projects (SEP) Program. These funds, generated by administrative enforcement settlements, currently go directly toward on-the-ground projects that prevent, reduce, or restore environmental damage, enhance public health, assess environmental pollution, raise public awareness related to pollution, promote emergency planning and preparedness, or fund land acquisition and research.

DEP's 1996 SEP Guidance Document states: "Generally, a SEP will be approved if the Commissioner determines there is a direct and appropriate relationship between the nature of the violation(s) and the environmental benefits to be derived from the SEP. Alternatively, the Commissioner may approve an SEP which, while lacking a direct nexus to the violation, either furthers the Department's statutory mission or reduces the likelihood of future violations similar to those at issue." (p.4)

At a time when DEP funding is facing severe budget and staffing limitations, S.B. 5125 would target the agency's limited resources on sources of pollution over which it has no jurisdiction, and divert much-needed funds from the Supplemental Projects Program, breaking the strong nexus between polluter and remedy. Audubon *strongly urges* the Environment Committee *to oppose* this bill.

*S.B. 5127 AAC the Implementation of the Proposals of the Ozone Transport Commission (OTC)*, unlike S.B. 5125 above which seeks to focus DEP efforts outside of Connecticut, seeks to limit the agency's ability to act regionally to ensure clean air and compliance with the federal Clean Air Act by adding unnecessary steps to the implementation of regulations or advice to EPA generated by the work of the OTC. Audubon *strongly urges* the Environment Committee *to oppose* this legislation.

Thank you for the opportunity to comment on these important matters today.

*Audubon Connecticut, the state organization of the National Audubon Society with more than 10,000 members statewide, works to protect birds, other wildlife and their habitats through education, science and conservation, and legislative advocacy for the benefit of humanity and the earth's biological diversity.*